

Murray, William

From: Barsky, Simon
Sent: Monday, November 08, 1999 10:02 PM
To: Taylor, Richard
Cc: Hunt, Brad; Hirsch, Ric; Goeckner, Gregory; Robbins, Dan; Attaway, Fritz; Cohen, Tod; Murray, William; Baker, Bill M.; Huynh, Phuong; Fritts, Jennifer; Dickie, Judy
Subject: 911. DVD decryption: Lawyers/Techies draft a press release. Send help! 1013
Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

Rich:

I'm sorry I missed your call back. At least I could have wished you a happy birthday, before continuing the string I was working last week. Here's today's installment:

Brad called an emergency meeting of his DVD technie/legal group to go over the hacking of the DeCSS encryption "keys". Among other parts of the conversation, the group wants to get a draft statement together that could be issued as a press release by the Association, or provide guidance to studios for their response on the issue. As we had too many lawyers and techies working too late on trying to draft by committee what they thought would turn into a press release, we decided that we ought to seek professional help (n.b.-we've already done the jokes at this end). The key problem is that we need it back in LA by your 12:15 p.m. Tuesday, November 9, as the issue has been public for almost a week, and the companies feel we need to do more than just stand around "no commenting". (NB: If there's a reason why that's still a good strategy, please so indicate). THEREFORE, we need your expert help.

We managed to get the group to let go after it outlined the following "messages" (we pointed out that we're asking the press release to do entirely too much work, but the response was a collective--"well, let's get it down on paper and then we can sort out what we want to emphasize, etc.") If you can get Fritz/Tod to eyeball your effort before you send it, so much the better; however, Brad's got a meeting beginning 12:30 p.m. your time, and review of the draft you forward will be first on the agenda.

Here's the list of concepts:

- i) Consumer message: So it was hacked; no big deal—even if you download it, you can't use it (there's no equipment available). Besides, it's much cheaper and easier for you to buy an extra copy than to go through the effort to generate a copy using the hacker's system. Besides, the hacked version lacks all the features (the techies insist on "functionality") of the real McCoy—you're better off with the real deal;
- 2) Lots of companies in the consumer electronics, information technology, as well as movie industries have been working hard to implement a variety of means to legitimately put the best possible entertainment before the public—it's a shame that all that effort may be squandered because some hackers didn't follow the rules and tried to throw a monkey wrench into the thousands of hours and millions of dollars spent on research and development;
- 3) Our copy protection efforts are based on a variety of efforts, including watermarking and other high-tech wizardry, so breaking into this door still leaves the bad guys lots more hurdles to overcome;
- 4) In addition to our technological protections, copyright owners will rely on contract remedies and the copyright law, as well as the newly enacted federal anti-circumvention law; and those who create intend to pursue their remedies to the fullest extent of the civil and criminal law;
- 5) We continue to believe that most of our audience is honest and understands that the best in entertainment can only be created if those who toil in the industry know they can be compensated for their creative endeavors, and don't lie cheat and steal, etc. (Flip side: does anyone believe that someone would put their best work out if it's likely to get stolen?)
- 6) Besides, those who buy or use "midnight software" have no guarantee that installing this material won't harm their computers. It's likely that those who, for fun if not profit, get their kicks from busting up the commercial endeavors of folks who create for a living, are likely the same folk who think that spreading "viruses" that destroy hard drives and data around the world is "cool".
- 7) This issue not only involves the creations of the entertainment community: those who manufacture and create the hardware and software have a tremendous stake in making sure that those who create product will be encouraged to do so, lest their be no reason for the consumer to snap up the new machines/technology.
- 8) In short, everyone has a stake in maintaining the integrity of this enterprise.

MPAA 001715

Attorney Client/Work Product

DEFENDANT'S
EXHIBIT

Yes Only

KE

Sorry to dump this on you. Hope you can turn it into poetry.
Best.

Simon

Please call me at 818 292 1678 AT ANY HOUR with any questions.